

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVIS LEWIS,	)	
	)	2:06cv1162
Plaintiff,	)	Electronic Filing
	)	
v.	)	Judge Cercone
	)	Magistrate Judge Caiazza
COMMONWEALTH OF	)	
PENNSYLVANIA, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

On September 13, 2006, this case was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On April 5, 2007, the magistrate judge issued a Report (Document No. 19) recommending that the Defendants' renewed request for change of venue (Document No. 16) be denied, and that their Motion to Dismiss (Document No. 16) be granted in part and denied in part.

Service of the Report and Recommendation was made on the parties, and no objections have been filed. After a review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, on this 27<sup>th</sup> day of April, 2007, IT IS HEREBY

ORDERED as follows:

- (a) the Defendants' renewed request for a change of venue (see **Document No. 16**) is **DENIED**;
- (b) their Motion to Dismiss (**Document No. 16**) is **GRANTED IN PART** and **DENIED IN PART**;
- (c) the following claims are **DISMISSED WITH PREJUDICE**:
  - (1) all claims made under the PHRA;
  - (2) the claims for monetary relief made pursuant to the ADA and for punitive damages under the ADA and the Rehabilitation Act;
  - (3) the claims for prospective relief under the ADA against the Commonwealth of Pennsylvania and the Pennsylvania State Police;
  - (4) the claims alleging that Davis was a victim of retaliation in violation of the ADA and the Rehabilitation Act; and
  - (5) the claims alleging that the Defendants failed to accommodate the Plaintiff's disability under the ADA and the Rehabilitation Act;
- (d) the Defendants' Motion to dismiss is **DENIED** regarding:
  - (1) prospective relief against Defendant Miller for alleged discrimination in violation of the ADA; and
  - (2) the claims of discrimination in violation of the Rehabilitation Act.

The Report and Recommendation of Magistrate Judge Caiazza dated April 5, 2007, is hereby adopted as the opinion of the District Court.



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David Stewart Cercone  
United States District Judge

cc: Honorable Francis X. Caiazza  
United States Magistrate Judge

Gregory G. Paul, Esquire  
Peirce Law Offices  
2500 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

Robert A. Willig, Esquire  
Office of Attorney General  
Manor Complex, 6<sup>th</sup> Floor  
564 Forbes Avenue  
Pittsburgh, PA 15219